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| 09/847,085 | 05/02/2001 | Daryl Carvis Cromer | RPS920000109US1 | 7195 |
| 42640 | 7590 | 10/17/2009 | | |
| DILLON & YUDELL LLP | | | EXAMINER | |
| 8911 NORTH CAPITAL OF TEXAS HWY | | | JACKSON, JENISE E | |
| SUITE 2110 | | | | |
| AUSTIN, TX 78759 | | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DARYL CARVIS CROMER, JOSEPH WAYNE FREEMAN,
STEVEN DALE GOODMAN, ERIC RICHARD KERN
and RANDALL SCOTT SPRINGFIELD

Application No. 09/847,085
Technology Center 2400

Mailed: October 19, 2009

Before JOYCE GUNTER-RILEY, Review Paralegal
GUNTER-RILEY, Review Paralegal

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on October 05, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

PRIOR ORDER FOR RETURN

A prior “Order Returning Undocketed Appeal to Examiner” was mailed on June 24, 2009, wherein the Examiner was instructed that corrections were required. A review of the file finds that the required corrections have not been made or have not been made in entirety. The matters still requiring attention prior to docketing are identified below.

EXAMINER’S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on October 10, 2009, in response to the Examiner’s Answer mailed February 19, 2009.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner’s answer responding to any new issue raised in the reply brief.

The Communication mailed October 10, 2009, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner’s Answer as per MPEP§ 1208, part II. A Supplemental Examiner’s Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) vacate the Communication mailed October 10, 2009;

2) generate and mail either:

a) a revised Communication properly acknowledging to the Reply Brief dated October 6, 2008, in accordance with MPEP§ 1208, part

II.; OR

b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director); and

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

/jgr/

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